

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DON A. MCLAUGHLIN,

Plaintiff,

-against-

WHITE PLAINS BOARD OF EDUCATION,

Defendant.

ANSWER TO COMPLAINT

07-CIV-7795 (CLB)

Defendant White Plains Board of Education (hereinafter "Board of Education"), as and for its Answer to the Complaint filed by Plaintiff Don A. McLaughlin alleges as follows:

FIRST: Defendant admits the allegations contained within Paragraphs "1" and "2" of the Complaint.

SECOND: Defendant denies the allegations contained within Paragraphs "3", "4", "5", and "7" of the Complaint.

THIRD: To the extent that an answer is required, the Defendant denies the allegation contained in Paragraph "6" because it never committed any acts of discrimination against the Plaintiff, and admits it is not still committing the denied acts of discrimination.

FOURTH: Defendant denies the allegations contained in paragraph "8" except to admit that Plaintiff applied for a per diem substitute teacher position with the White Plains City School District.

FIFTH: Defendant admits the allegation contained within Paragraph "9" of the Complaint to the extent that Plaintiff filed a charge with the New York State Division of Human Rights (hereinafter "SDHR").

SIXTH: Defendant admits the allegation contained within Paragraph "10" of the Complaint because the Plaintiff's SDHR charge was dually filed by the SDHR with the Equal Employment Opportunity Commission.

SEVENTH: Defendant asserts that no response is needed with respect to Paragraph "11" of the Complaint.

EIGHTH: Defendant admits the allegation contained within Paragraph "12" of the Complaint to the extent that Plaintiff was issued a Right to Sue Letter. Defendant lacks knowledge or information sufficient to form an opinion as to the truthfulness of the date Plaintiff received the Right to Sue Letter.

AS AND FOR A FIRST
AFFIRMATIVE DEFENSE

NINTH: Plaintiff failed to timely file his Complaint and as such this action is time-barred. Plaintiff was required to commence this action within ninety (90) days from receipt of his Right to Sue Letter, and he failed to do so.

AS AND FOR A SECOND
AFFIRMATIVE DEFENSE

TENTH Jurisdiction does not lie in this Court because Plaintiff pursued his claims of discrimination through complete administrative proceedings before the SDHR, followed by appellate review in New York State Courts. Plaintiff's election of remedies deprives this Court of subject matter jurisdiction.

AS AND FOR A THIRD
AFFIRMATIVE DEFENSE

ELEVENTH: Plaintiff's cause of action has previously been adjudicated on the merits, by the New York State Division of Human Rights, in a case involving the same parties and involving the identical cause of action and allegations. Therefore, Plaintiff's claims and all potential claims arising out of the transactions alleged in the Complaint are barred by the doctrines of res judicata and/or collateral estoppel.

AS AND FOR A FOURTH
AFFIRMATIVE DEFENSE

TWELTH: Plaintiff has failed to state a cause of action upon which relief can be granted.

AS AND FOR A FIFTH
AFFIRMATIVE DEFENSE

THIRTEENTH: Plaintiff's documents fail to meet the federal court requirements of a federal complaint (*e.g.*, F.R.C.P., Rules 8, 10(b)).

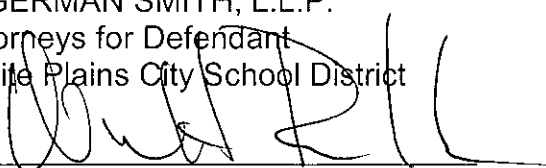
AS AND FOR A SIX
AFFIRMATIVE DEFENSE

FOURTEENTH: The administrative actions taken towards Complainant were at all times reasonable, appropriate and based on legitimate, non-discriminatory reasons. At no time was Complainant subjected to discrimination on the basis of his race, color, national origin, creed, sex and in retaliation for filing an earlier State Division of Human Rights Complaint.

WHEREAS, Defendant respectfully requests that the Complaint be dismissed in its entirety.

Dated: Hauppauge, New York
February 5, 2008

INGERMAN SMITH, L.L.P.
Attorneys for Defendant
White Plains City School District

By: 
WARREN H. RICHMOND (WHR-3444)
150 Motor Parkway, Suite 400
Hauppauge, New York 11788
(631) 261-8834

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DON A. MCLAUGHLIN,

Plaintiff,

-against-

WHITE PLAINS BOARD OF EDUCATION,

Defendant.

AFFIDAVIT OF SERVICE

07-CIV-7795 (CLB)

STATE OF NEW YORK)
)s.s.:
COUNTY OF SUFFOLK)

MARILYN J. PERULLO, being duly sworn, deposes and says:

I am not a party of the action, am over 18 years of age and reside in Kings Park, New York. On the 8th day of February, 2008, I served the within **ANSWER TO COMPLAINT** by depositing a true copy thereof enclosed in a postpaid wrapper, by regular mail in an official depository under the exclusive care of the U.S. Postal Service within New York State addressed to DON A. McLAUGHLIN, Pro Se, P.O. Box 1964, White Plains, New York 10602.


MARILYN J. PERULLO

Sworn before me this
8th day of February, 2008


NOTARY PUBLIC

MICHAEL MCALVIN
Notary Public, State of New York
No. 02MO6154320
Qualified in Suffolk County
Commission Expires Oct. 23, 2010